

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**TAYR KILAAB AL GHASHIYAH (KAHN)
formerly known as JOHN CASTEEL,**

Plaintiff,

v.

USDC Case No. 01-C-10

USCA Case No. 07-3670

**WISCONSIN DEPARTMENT OF
CORRECTIONS, JON E. LITSCHER,
DANIEL BERTRAND, MICHAEL BAENEN,
KENNETH MORGAN, CHRISTOPHER ELLERD,
JUDY SMITH, GARY MCCAUGHTRY,
GENE DOBBERSTEIN, and PHILLIP MACHT,**

Defendants.

ORDER

On October 31, 2007, the court granted plaintiff Tayr Kilaab al Ghashiyah's motion for leave to proceed in forma pauperis on appeal, and ordered that he should submit a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of his notice of appeal. On November 29, 2007, plaintiff filed such a statement. A review of this information reveals that plaintiff does not have the funds to pay an initial partial filing fee. Accordingly, plaintiff will be granted a waiver of payment of the initial partial filing fee in this case. See 28 U.S.C. § 1915(b)(4) ("In no event shall a prisoner be prohibited from . . . appealing a civil . . . judgment for the reason that [he] has no assets and no means by which to pay the initial partial filing fee."). Plaintiff is, however, still

obligated to pay the full filing fee as required by 28 U.S.C. §1915(b)(2). See 28 U.S.C. § 1915(b)(1).

The PLRA also provides that if a prisoner files more than three actions or appeals which are dismissed as frivolous or malicious or for failure to state a claim upon which relief can be granted, the prisoner will be prohibited from bringing any other actions in forma pauperis unless the prisoner is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). In the event that this appeal is later dismissed for any of the above reasons, it will have an impact on plaintiff's ability to bring other actions in forma pauperis.

Accordingly,

IT IS ORDERED that the Secretary of the Wisconsin Department of Corrections or his designee shall collect from plaintiff's prison trust account the balance of the filing fee (\$455) by collecting monthly payments from plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

IT IS FURTHER ORDERED that copies of this order be sent to the warden of the institution where the plaintiff is confined, and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin 53707-7857, and to PLRA Attorney, United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn Street, Rm. 2722, Chicago, Illinois 60604.

Dated at Milwaukee, Wisconsin this 12 day of December, 2007.

/s

LYNN ADELMAN
District Judge